

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DAVID FERGUSON, et al.

Plaintiff,

C-1-02-039

-v-

RYDER AUTOMOTIVE, et al.,

Judge Weber

Defendants.

ANSWER TO DEFENDANTS' JOINT MOTION FOR EXTENSION OF TIME
AND MOTION FOR INTEREST

Now comes Plaintiffs in response to Defendants' Joint Motion For Extension of Time and state that this case was settled on April 19, 2004. At that time, Plaintiffs' counsel gave Defendants two weeks to have a check given to Plaintiffs' counsel and set the date of May 10, 2004 for the final Entry. All counsel agreed the check would be given to Plaintiffs within two weeks. May 10, 2004, is three weeks from the date of April 19, 2004.

Plaintiffs would answer and move this court to award interest from the date of the settlement of April 19, 2004, pursuant to *Hartmann v. Duffey*, 2002, 95 Ohio St.3d 456 which provides that interest would accrue for the amount of the settlement from the time the settlement is reached until the time payment is received. Therefore, Plaintiffs would request since Defendants were explicitly told that they had two weeks to provide the funds to Plaintiffs or else *Hartmann v. Duffey* would be applicable, that this Court award interest at the rate of 10%, the statutory rate in Ohio, on the settlement amount from the date of April 19, 2004 until the date that the funds are actually received by the Plaintiffs. This is also pursuant to R.C. 1343.03.

WHEREFORE, Plaintiffs move this Court for statutory interest on the settlement amount from April 19, 2004 until the amount is received by Plaintiffs.

Respectfully submitted,

/s/Thomas R. Koustmer

Thomas R. Koustmer (0008410)
Attorney for Plaintiffs
1800 Federated Building
7 West Seventh Street
Cincinnati, Ohio 45202
(513) 621-3616
Email: plpaige@aol.com

/s/Michael J. Honerlaw

Michael J. Honerlaw (0034469)
Attorney for Plaintiff
Honerlaw & Honerlaw Co., L.P.A.
9227 Winton Road
Cincinnati, Ohio 45231
(513) 931-2200
Email: mike@honerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic transmission to the following this 13th day of May, 2004:

Kenneth Robert Schoeni
Kohnen & Patton
PNC Center, Suite 800
201 E. Fifth Street
Cincinnati, Ohio 45202
(513) 381-0656
Attorney for Defendants, Ryder System Inc;
and Commercial Carriers, Inc.

David E. Larson
Larson & Larson PC
11300 Tomahawk Creek Parkway, Suite 310
Leawood, KS 66211
Attorney for Defendants Ryder System Inc.,
And Commercial Carriers, Inc.

Robert Albert Winter, Jr.
Hemmer Spoor Pangburn DeFrank & Kasson PLLC
250 Grandview Dr., Suite 200
Ft. Mitchell, KY 41017
(859) 344-1188
Attorney for Defendants, Allied Systems and
Allied Automotive Group

Craig R. Paulus, Esq.
Taft, Stettinius & Hollister LLP
PNC Center
201 E. Fifth St., Suite 800
Cincinnati, Ohio 45202-3957
Attorney for Defendant Hanes Supply, Inc.

/s/Thomas R. Koustmer
Thomas R. Koustmer
Attorney for Plaintiffs